

157. One commenter, XO, alleges that Verizon does not meet the requirements of this checklist item, because Verizon employs manual processing for certain types of directory listing requests from competitive LECs.<sup>474</sup> We reject, for the same reasons articulated in the *Pennsylvania 271 Order*, that such manual processing gives rise to a *per se* violation of this checklist item.<sup>475</sup> XO further claims that Verizon's manual approach has resulted in numerous unnecessary errors to "as is" requests (*i.e.*, where no change is requested from an existing Verizon directory listing).<sup>476</sup> The New Jersey Board, however, found that XO presented no evidence in support of its claims, and XO provides no additional evidence in this proceeding.<sup>477</sup> Finally, XO asserts that the timeframe provided for review of the Listings Verification Report ("LVR") is not sufficient for it to review and correct all errors prior to publication.<sup>478</sup> Verizon asserts that it provides competitive LECs with thirty business days to review the LVR and that it also provides ongoing electronic access to directory listings that allows competitive LECs to review and make corrections at any time.<sup>479</sup> We find, based on the evidence presented in this record, that Verizon provides sufficient opportunity to competitive LECs to review and correct errors in their directory listings.<sup>480</sup>

### C. Checklist Item 13 – Reciprocal Compensation

158. Section 271(c)(2)(B)(xiii) of the Act requires BOCs to enter into "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)."<sup>481</sup> In turn, section 252(d)(2)(A) specifies the conditions necessary for a state commission to find that

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states where it has been approved for Section 271 authority. Verizon NJ I Application at 51. We also note that KPMG reviewed Verizon's provision of directory listings and found that Verizon provides accurate listings to competitive LECs. KPMG Final Report at 229; *see also* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 284.

<sup>474</sup> XO states that the practical effect of Verizon's policy is to subject the majority of competitors' directory listings to re-typing by Verizon's National Marketing Center personnel before the order is actually submitted to Verizon Directory Services. XO NJ I Comments at 10-11.

<sup>475</sup> *Verizon Pennsylvania Order*, 16 FCC Rcd at 17482-83, para. 117; *see generally* *Bell Atlantic New York Order*, 15 FCC Rcd at 3992, paras. 83-84, 87-89; *Ameritech Michigan Order*, 12 FCC Rcd at 20616-18, paras. 137-38, and 20638, para. 180.

<sup>476</sup> XO asserts that Verizon manually processes (*i.e.*, retypes the order) the following order types: (1) an order involving migration from Verizon facilities to competitive LEC facilities; (2) an order with greater than six lines; (3) an order that modifies directory listings; or (4) an order deemed "complex." XO NJ I Comments at 10.

<sup>477</sup> New Jersey Board NJ I Comments at 64.

<sup>478</sup> XO NJ I Comments at 13.

<sup>479</sup> Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 280-82.

<sup>480</sup> *Verizon Pennsylvania Order*, 16 FCC Rcd at 17481-82, para. 115.

<sup>481</sup> 47 U.S.C. § 271(c)(2)(B)(xiii).

the terms and conditions for reciprocal compensation are just and reasonable.<sup>482</sup> We conclude that Verizon provides reciprocal compensation as required by checklist item 13.

159. Cavalier alleges that Verizon refuses to provide compensation for Verizon-originated traffic that Cavalier carries from the physical interconnection point to Cavalier's switch.<sup>483</sup> We note that the New Jersey Board found that Verizon complies with its obligations to provide reciprocal compensation for transportation and termination of local calls to competing carriers in New Jersey.<sup>484</sup> On the record before us, we agree. Verizon acknowledges the existence of a billing dispute with Cavalier concerning the obligation to pay Cavalier both reciprocal compensation and for use of interLATA transmission facilities.<sup>485</sup> Verizon contends, however, that Cavalier is "attempting to charge Verizon twice for the same thing."<sup>486</sup> This billing dispute concerning conflicting interpretations of an interconnection agreement should be resolved by the New Jersey Board.<sup>487</sup> As we have stated in prior section 271 orders, "section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions."<sup>488</sup>

160. AT&T and XO also argue that Verizon's refusal to pay reciprocal compensation for Internet-bound traffic violates checklist item 13.<sup>489</sup> The Commission previously determined that whether a BOC pays reciprocal compensation for Internet-bound traffic "is not relevant to compliance with checklist item 13."<sup>490</sup> In addition, as the New Jersey Board stated, allegations "that [competitive LECs] are entitled, under their interconnection agreements, to reciprocal compensation for Internet-bound traffic are already the subject of pending complaint proceedings . . . [and] will be resolved by the Board in due course."<sup>491</sup> There is no evidence on the record

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<sup>482</sup> *Id.* § 252(d)(2)(A).

<sup>483</sup> Cavalier NJ II Comments at 3-4. Cavalier also characterizes this claim as showing non-compliance with checklist item 1, but we have already found that Verizon satisfies that item. *See supra* paras. 154-55.

<sup>484</sup> New Jersey Board NJ I Comments at 73. *See also New Jersey BPU Final UNE Rate Order* at 250-52.

<sup>485</sup> *See Verizon NJ I Lacouture/Ruesterholz Reply Decl.* at para. 65.

<sup>486</sup> *Id.*

<sup>487</sup> Cavalier's allegations are also the subject of an ongoing proceeding in Delaware, where Cavalier's switch is located. Cavalier NJ II Comments at 3-5 & n.1. As stated above, we decline to interfere with an ongoing state proceeding that is expected to resolve a dispute over an interconnection agreement.

<sup>488</sup> *Verizon Pennsylvania Order*, 16 FCC Rcd at 17484, para. 118.

<sup>489</sup> AT&T NJ I Comments at 41-42; XO NJ I Comments at 4-6.

<sup>490</sup> *Verizon Connecticut Order*, 16 FCC Rcd at 14177, para. 67. *Accord Verizon Pennsylvania Order*, 16 FCC Rcd at 17484, para. 119; *Verizon Massachusetts Order*, 16 FCC Rcd at 9108-09, para. 215.

<sup>491</sup> New Jersey Board NJ I Comments at 73. *See also New Jersey BPU Final UNE Rate Order* at 252; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17484, para. 118.

before us that warrants our interfering with these ongoing state proceedings. We therefore reject XO and AT&T's claims concerning reciprocal compensation for Internet-bound traffic.<sup>492</sup>

**D. Checklist Item 14 – Resale**

161. Section 271(c)(2)(B)(xiv) of the Act requires that a BOC make “telecommunications services . . . available for resale in accordance with the requirements of section 251(c)(4) and section 252 (d)(3).”<sup>493</sup> Based on the record in this proceeding, we conclude as did the New Jersey Board, that Verizon satisfies the requirements of this checklist item in New Jersey.<sup>494</sup>

162. Metro Teleconnect and Joint Commenters allege that Verizon unreasonably requires resellers to either purchase call blocking services or be liable for casual, third-party, and collect call charges incurred by their end users. Metro Teleconnect and Joint Commenters claim that such a policy impermissibly shifts risks and costs to the reseller from Verizon.<sup>495</sup> In addition, because Verizon's services will not block certain types of calls, including calls from interexchange carriers that have not opted to participate in Verizon's screening process, commenters contend that Verizon effectively requires resellers to pay for both ineffective call blocking services and for all calls that are not blocked.<sup>496</sup> Metro Teleconnect and Joint Commenters argue that such policies do not comply with Verizon's obligations under checklist item 14.

163. We reject these claims and agree with Verizon that its resale policies do not impermissibly shift risks and costs from Verizon to resellers.<sup>497</sup> As Verizon has explained, it offers resellers both a call blocking service, which restricts an end user's ability to make 10-10XXX intraLATA calls, and a Toll Billing Exception screening service, which restricts an end user's ability to accept collect and third-party or third-number calls.<sup>498</sup> Verizon has also

<sup>492</sup> For the same reasons, we reject XO's additional argument that Verizon improperly amended an interconnection agreement in violation of the Commission's *Reciprocal Compensation Order*. See XO NJ I Comments at 7 (citing *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 and 99-68, Order on Remand and Report and Order, FCC 01-131 (rel. April 18, 2001) (*Reciprocal Compensation Order*). The D.C. Circuit's ruling in *WorldCom, Inc. v. FCC*, No. 01-1218, 2002 WL 832541 (D.C. Cir. May 3, 2002), does not affect this conclusion.

<sup>493</sup> 47 U.S.C. § 271(c)(2)(B)(xiv). See Appendix C at para. 67.

<sup>494</sup> Verizon has a concrete and specific legal obligation in its interconnection agreements and tariffs to make its retail services available for resale to competing carriers at wholesale rates. See Verizon NJ I Application at 55; Verizon NJ II Lacouture/Ruesterholz Decl. at para. 331.

<sup>495</sup> Metro Teleconnect NJ II Comments at 5; Joint Commenters NJ II Comments at 5.

<sup>496</sup> Metro Teleconnect NJ II Comments at 6; Joint Commenters NJ II Comments at 6.

<sup>497</sup> Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at paras. 66-67.

<sup>498</sup> *Id.* at paras. 67-68.

explained that not all operator service providers and interexchange carriers have opted to participate in the Toll Billing Exception screening process. As a result, Verizon cannot guarantee that all such calls made by end users will be prevented by subscription to this service.<sup>499</sup> We agree with Verizon, however, that the absence of such a guarantee should not place responsibility for charges associated with such calls on Verizon. A reseller, like any other telecommunications carrier -- including Verizon, with respect to its retail customers -- is responsible for the charges incurred by its own end users. Therefore, we find Verizon's policy in this case is not unreasonable.

### E. Remaining Checklist Items

164. In addition to showing compliance with the statutory requirements discussed above, an applicant for section 271 authority must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits),<sup>500</sup> item 5 (transport),<sup>501</sup> item 6 (switching),<sup>502</sup> item 7 (911/E911, directory assistance, and operator services),<sup>503</sup> item 9 (numbering administration),<sup>504</sup> item 10 (databases and associated signaling),<sup>505</sup> item 11 (number portability),<sup>506</sup> and item 12 (local dialing parity).<sup>507</sup> Based on the evidence in the record, we conclude as did the New Jersey Board, that Verizon demonstrates that it is in compliance with checklist items 3, 5, 6, 7, 9, 10, 11, and 12 in New Jersey.<sup>508</sup> None of the commenting parties challenge Verizon's compliance with these checklist items.

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<sup>499</sup> *Id.* at para. 68. It is the resellers' obligation to inform their end users that Verizon's Toll Billing Exception service is not a guaranteed block, and that some calls may go through and will be billed accordingly.

<sup>500</sup> 47 U.S.C. § 271(c)(2)(B)(iii).

<sup>501</sup> *Id.* § 271(c)(2)(B)(v).

<sup>502</sup> *Id.* § 271(c)(2)(B)(vi).

<sup>503</sup> *Id.* § 271(c)(2)(B)(vii).

<sup>504</sup> *Id.* § 271(c)(2)(B)(ix).

<sup>505</sup> *Id.* § 271(c)(2)(B)(x).

<sup>506</sup> *Id.* § 271(c)(2)(B)(xi).

<sup>507</sup> *Id.* § 271(c)(2)(B)(xii).

<sup>508</sup> Verizon NJ I Application at 48 (item 3), 45-46 (item 5), 43-45 (item 6), 48-50 (item 7), 52 (item 9), 52-53 (item 10), 53-54 (item 11), and 54 (item 12); Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 218-232 (item 3), paras. 188-206 (item 5), 168-87 (item 6), 233-266 (item 7), 286-289 (item 9), 290-315 (item 10), 316-320 (item 11), and 321-326 (item 12). See Appendix B.

## V. SECTION 272 COMPLIANCE

165. Section 271(d)(3)(B) provides that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."<sup>509</sup> Based on the record, we conclude that Verizon has demonstrated that it will comply with the requirements of section 272.<sup>510</sup> Significantly, Verizon provides evidence that it maintains the same structural separation and nondiscrimination safeguards in New Jersey as it does in Pennsylvania, New York, Connecticut, and Massachusetts – states in which Verizon has already received section 271 authority.<sup>511</sup> No party challenges Verizon's section 272 showing.<sup>512</sup>

## VI. PUBLIC INTEREST ANALYSIS

166. Apart from determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.<sup>513</sup> At the same time, section 271(d)(4) of the Act states that "[t]he Commission may not, by rule or

<sup>509</sup> 47 U.S.C. § 271(d)(3)(B); Appendix C at paras. 68-69.

<sup>510</sup> See Verizon NJ I Application at 71-76; Verizon NJ I Application App. A, Vol. 3, Tab E, Declaration of Susan C. Browning, at para 4 (Verizon NJ I Browning Declaration). As noted *infra* at Section VI.C, issues concerning premature marketing of Verizon long distance service in New Jersey arose late in this proceeding. On Day 83 of the 90-day review period, AT&T filed an *ex parte* suggesting that Verizon's marketing conduct violated Section 272(g)(2) of the Act, 47 U.S.C. § 272(g)(2). See *Reply of AT&T Corp. in Support of Motion for Emergency Relief*, WC Docket No. 02-67, at 4 and 10 (filed June 17, 2002). We take no position on the validity of AT&T's section 272(g) claims here. Instead, we defer any enforcement action pending the outcome of the Enforcement Bureau's investigation of this matter. See *infra* at paras. 188-190.

<sup>511</sup> *Verizon Pennsylvania Order*, 16 FCC Rcd at 17486, para. 124; *Verizon Connecticut Order*, 16 FCC Rcd at 14178-79, para. 73; *Verizon Massachusetts Order*, 16 FCC Rcd at 9114-17, paras. 226-31; *Bell Atlantic New York Order*, 15 FCC Rcd at 4152-61, paras. 401-21; Verizon NJ I Application at 71-76; Verizon NJ I Browning Decl. at paras. 4-17.

<sup>512</sup> PricewaterhouseCoopers completed the first independent audit of Verizon's section 272 compliance pursuant to section 53.209 of the Commission's rules. See Letter from PricewaterhouseCoopers LLP to Magalie Roman Salas, Secretary, Federal Communications Commission (June 11, 2001) (transmitting audit report). While the audit raises issues that may require further investigation, the audit results, standing alone, are insufficient to establish whether Verizon is in compliance with section 272. Parties were required to submit comments on the audit report no later than January 24, 2002. See *Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, DA 01-2670, Order (rel. Nov. 15, 2001) (extending deadline for filing comments). On February 6, 2002, the independent auditor submitted the unredacted audit report and supplemental report. The Commission granted an extension of time for submitting comment on Verizon's section 272(d) biennial audit report. See *Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, DA 02-372, Order (rel. Feb. 15, 2002) (extending deadline for filing comments). Because the Commission will not have had the opportunity to complete its own review of the audit results before it is required to issue a decision on this section 271 application, it would be premature to consider the audit as evidence of shortcomings in Verizon's section 272 compliance.

<sup>513</sup> 47 U.S.C. § 271(d)(3)(C); Appendix C at paras. 70-71.

otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).”<sup>514</sup> Accordingly, although the Commission must make a separate determination that approval of a section 271 application is “consistent with the public interest, convenience, and necessity,” it may neither limit nor extend the terms of the competitive checklist of section 271(c)(2)(B). Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will serve the public interest as Congress expected.

167. We conclude that approval of this application is consistent with the public interest. From our extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in New Jersey’s local exchange market have been removed, and that the local exchange market is open to competition. We further find that the record confirms the Commission’s view that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.<sup>515</sup>

168. We disagree with commenters who assert that we must, under our public interest standard, consider a variety of other factors as evidence that the local market is not yet truly open to competition, despite checklist compliance.<sup>516</sup> For example, some commenters argue that low levels of residential competition in New Jersey indicate that Verizon’s application is premature.<sup>517</sup> We note that Congress specifically declined to adopt a market share or other, similar test for BOC entry into long distance.<sup>518</sup> Given an affirmative showing that the competitive checklist has been satisfied, low customer volumes or the failure of any number of companies to enter the market in and of themselves do not necessarily undermine that showing. As the Commission has stated in previous section 271 orders, factors beyond the control of the BOC, such as individual competitive LEC entry strategies, can explain low levels of residential competition.<sup>519</sup>

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<sup>514</sup> 47 U.S.C. § 271(d)(4).

<sup>515</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18558-89, para. 419.

<sup>516</sup> Those factors include the level of competitive LEC market share, the level of competition in all geographic regions in New Jersey, the financial strength of competitive LECs, and the failure of other BOCs to enter the market in New Jersey. See, e.g., AT&T NJ I Comments at 32-40; AT&T NJ II Comments at 29; NJCTA NJ I Comments at 4; NJCTA NJ II Reply at 6; NJDRA NJ I Comments at 28-29; NJDRA NJ II Comments at 17-18; Sprint NJ I Comments at 4-11; Sprint NJ II Comments at 2-3; WorldCom NJ I Comments at 5-8.

<sup>517</sup> AT&T NJ I Comments at 47; NJDRA NJ I Comments at 28-29; Sprint NJ I Comments at 11; NJDRA NJ I Reply at 3; NJCTA NJ II Reply at 6.

<sup>518</sup> See, e.g., *Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77; *Sprint v. FCC*, 274 F. 3d at 553-54.

<sup>519</sup> See *Verizon Pennsylvania Order*, 16 FCC Rcd 17487, para. 126.

### A. Price Squeeze Analysis

169. Commenters allege the existence of a price squeeze in New Jersey that, they assert, compels a finding that the grant of Verizon's NJ II application is not in the public interest.<sup>520</sup> As an initial matter, no commenter argues that the \$35 hot cut rate in New Jersey effects a price squeeze on competitors.<sup>521</sup> XO does contend, however, that the Commission must determine whether Verizon's *previous* hot cut rates of \$159.76 and \$233.13 constitute a price squeeze.<sup>522</sup> In addition, AT&T re-asserts its NJ I argument that Verizon's UNE rates effect a price squeeze, are discriminatory, and violate checklist item two.<sup>523</sup> WorldCom also incorporates by reference its NJ I argument that the profit margin available to competitors in the New Jersey residential market is insufficient and constitutes a price squeeze.<sup>524</sup> We do not find any of these price squeeze arguments to be persuasive.

170. XO bases its contention that we must evaluate Verizon's previous hot cut rates on the claim that there are material differences between the New Jersey's \$35 hot cut rate and New York's \$35 hot cut rate. XO specifically alleges that the \$35 rate in New Jersey, unlike that in New York, is merely a temporary credit.<sup>525</sup> There is no evidence that the specific hot cut terms in New York differ significantly from those in New Jersey.<sup>526</sup> In fact, as Verizon recently announced, the \$35 hot cut rate in New Jersey will remain in effect for at least two years, until March 1, 2004, just as in New York.<sup>527</sup> We therefore reject commenters' argument that there are material differences between the New Jersey and New York hot cut rates that would warrant

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<sup>520</sup> In our *Vermont Order*, we noted that the Commission intends to release an order addressing the issues posed in *Sprint v. FCC*, 274 F.3d 549 (D.C. Cir. 2001), concerning how we should consider allegations of a price squeeze in section 271 proceedings. *Verizon Vermont Order* at para. 66. We also stated that, because we have not yet addressed the issues remanded by the court, we would consider the specific allegations presented by the parties in that application. *Id.* We follow the same approach in this application. We also incorporate by reference our discussion in the *Vermont Order* of *FPC v. Conway*, 426 U.S. 271 (1976). See *Verizon Vermont Order* at para. 67.

<sup>521</sup> While AT&T claims that the \$35 hot cut rate in New Jersey does not comply with TELRIC, see AT&T NJ II Comments at 7-9, AT&T does not argue that this rate constitutes a price squeeze. In addition, the Joint Commenters state, without support or elaboration, that Verizon's prices for call blocking services constitute a price squeeze. Joint Commenters NJ II Comments at 9. We reject this unsupported statement, which is contained in a single sentence in the conclusion of the Joint Commenter's comments. See *id.*

<sup>522</sup> XO NJ II Comments at 5 n.13.

<sup>523</sup> AT&T NJ I Comments at 42-43.

<sup>524</sup> WorldCom NJ I Comments at 6 & n.4.

<sup>525</sup> XO NJ II Comments at 3-4.

<sup>526</sup> Contrary to commenters' claims, see, e.g., *id.* at 4 n.10 and AT&T NJ II Comments at 9-10, the existence of a global settlement in New York does not demonstrate that the hot cut rate terms and conditions differ from those in New Jersey.

<sup>527</sup> Verizon NJ II May 8 *Ex Parte* Letter at Attach. 3.

disapproval of the NJ II application,<sup>528</sup> and we also decline to conduct a price squeeze analysis using Verizon's previous hot cut rates of \$159.76 and \$233.13.<sup>529</sup>

171. We also reject the UNE price squeeze arguments of AT&T and WorldCom from NJ I, which they incorporate by reference in NJ II.<sup>530</sup> Both commenters make related arguments concerning the allegedly insufficient profit margin available to them in the residential telephone market in New Jersey. AT&T specifically claims that Verizon's UNE prices "effect a price squeeze that prevents UNE-based competitors from earning sufficient margins to provide local service economically in competition with Verizon, by imposing wholesale costs on Verizon's competitors that render it impossible for them to offer a retail service that would be price competitive."<sup>531</sup> Similarly, WorldCom argues that "[t]here is a serious price squeeze in New Jersey" because, even in the most favorable zone, "the gross margin between a CLEC's revenues and telco costs using UNE-P would be only \$7.44 per line each month, which is not sufficient to cover a company's internal costs of more than \$10 per line each month."<sup>532</sup>

172. Significantly, neither commenter claims that it cannot earn a positive gross margin in New Jersey. WorldCom concedes that residential profit margins in the state range from \$7.44 to \$3.85 and that the statewide average is \$5.62.<sup>533</sup> WorldCom suggests, however, that the margin must be at least \$10.00 but provides no cost and other data to support that assertion. As we have noted previously, conducting a price squeeze analysis requires a determination of what a "sufficient" profit margin is.<sup>534</sup> Resolving that issue requires more than simply determining what is sufficient for a particular carrier. Although WorldCom alleges that it requires at least \$10.00 per line to cover its internal costs, we are concerned here not with WorldCom's own particular profit margin requirements, but with sufficient profit for an efficient competitor. The evidence before us demonstrates that competitive LECs in New Jersey can realize positive margins in 100 percent of the state and that the statewide average gross margin is \$5.62. There is no record evidence before us that these profit margins are inadequate for an efficient competitor. Thus, the

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<sup>528</sup> See, e.g., XO NJ II Comments at 4 n.10; AT&T NJ II Reply at 5 n.5. For the same reasons, we also reject the NJDRA's contention that Verizon's \$35 hot cut rate in New Jersey is "tenuous at best and possibly illusory." NJDRA NJ II Reply at 4.

<sup>529</sup> We similarly dismiss commenters' claims asserted in NJ I, which they incorporated by reference in NJ II, that the \$158.76 and \$233.13 hot cut rates effect a price squeeze on competitors. See AT&T NJ I Comments at 13; XO NJ I Comments at 17-21.

<sup>530</sup> AT&T NJ II Comments at 1 n.1; WorldCom NJ II Comments at i.

<sup>531</sup> AT&T NJ I Comments at 42.

<sup>532</sup> WorldCom NJ I Comments at 6.

<sup>533</sup> *Id.*

<sup>534</sup> *Verizon Vermont Order* at para.70; *Verizon Massachusetts Order*, 16 FCC Rcd at 9008-09, para. 41.



evidence submitted by WorldCom is inadequate for us to determine that a price squeeze exists in the New Jersey residential market.<sup>535</sup>

173. We also note that the New Jersey Board itself considered allegations of a price squeeze in the New Jersey residential market. During a November 20, 2001 state hearing, staff of the New Jersey Board presented evidence that the average residential customer generates approximately \$30.00 in monthly revenue.<sup>536</sup> New Jersey Board staff noted that local competitors such as AT&T who are also long distance carriers would receive net access savings or revenues.<sup>537</sup> “As CLEC[s], [companies such as AT&T] would be providing local service to their customer[s] and they would then also be receiving access payments from long-distance carriers and/or they would not be paying access revenues to the ILEC.”<sup>538</sup> After subtracting UNE-platform costs from estimated monthly residential rates, staff of the New Jersey Board determined that competitors could expect to earn a monthly gross profit of approximately \$6.50.<sup>539</sup> According to the staff, this figure is “probably understated, but it’s certainly indicative of an illustrative calculation that a CLEC could utilize in order to be able to decide whether it wants to enter the residential market here in New Jersey en masse.”<sup>540</sup> New Jersey Board Commissioner Butler concluded that the staff’s price squeeze analysis addressed any “excuse that these [UNE-platform] rates are higher than the income that the competitor would realize if they came in and sold service to a local customer.”<sup>541</sup> We commend the New Jersey Board’s independent analysis of the price squeeze issue and find that it provides additional support for our conclusion that commenters have not established the existence of a price squeeze in New Jersey.

174. AT&T also contends that its evidence of a price squeeze also establishes that Verizon’s New Jersey UNE rates are discriminatory in violation of checklist item two.<sup>542</sup> As

<sup>535</sup> AT&T submits no cost or other evidence in support of its profit margin claim, and we therefore reject it.

<sup>536</sup> *Board’s Review of Unbundled Network Elements, Rates, Terms, and Conditions of Bell-Atlantic-New Jersey, Inc.*, Docket No. TO0060356, *Transcript of Board Meeting* at 33, 39-40 (Nov. 20, 2001).

<sup>537</sup> *Id.* at 34.

<sup>538</sup> *Id.*

<sup>539</sup> *Id.* at 35.

<sup>540</sup> *Id.*

<sup>541</sup> *Id.* at 39.

<sup>542</sup> AT&T NJ I Comments at 43; Letter from Robert W. Quinn, Jr., Vice President, Federal Government Affairs, AT&T, to William F. Caton, Acting Secretary, Federal Communications Commission (March 1, 2002) (AT&T NJ I March 1 *Ex Parte* Letter) at 8 (stating that, if “high-end UNE rates foreclose UNE purchasers from economically providing residential competition, then . . . Verizon is engaged in ‘discrimination,’ and it has not satisfied checklist item two even if the UNE rates . . . fall within some range of cost-based rates”). We do not agree that evidence of a price squeeze necessarily demonstrates discriminatory rates in violation of checklist item two. This is because, as the D.C. Circuit recognized, “the residential market may not be attractive to competitors even if UNE costs are at the lower end of the TELRIC (assuming it to have a material range).” *Sprint v. FCC*, 274 F.3d at 556 (citations (continued....))

discussed above, we conclude that AT&T has not established the existence of a price squeeze in the residential market. AT&T submits no other price squeeze analysis in support of this claim. Accordingly, we need not decide whether the existence of a price squeeze in the residential market would constitute a separate violation of checklist item two.<sup>543</sup>

175. For the reasons stated above, we reject commenters' allegations of a price squeeze and conclude that there is no evidence in the record that warrants disapproval of this application based on such contentions, whether couched as a violation of the public interest standard or as discrimination in violation of checklist item two.

#### **B. Assurance of Future Compliance**

176. As set forth below, we find that the Incentive Plan (IP) currently in place in New Jersey provides assurance that the local market will remain open after Verizon receives section 271 authorization. We find that the plan falls within a zone of reasonableness and is likely to provide incentives that are sufficient to foster post-entry checklist compliance. In prior orders, the Commission has explained that one factor it may consider as part of its public interest analysis is whether a BOC would have adequate incentives to continue to satisfy the requirements of section 271 after entering the long distance market.<sup>544</sup> Although it is not a requirement for section 271 authority that a BOC be subject to such performance assurance mechanisms, the Commission previously has stated that the existence of a satisfactory performance monitoring and enforcement mechanism would be probative evidence that the BOC will continue to meet its section 271 obligations after a grant of such authority.<sup>545</sup> The IP, in combination with the New Jersey Board's active oversight of the IP and its stated intent to undertake a comprehensive review to determine whether modifications are necessary, provides additional assurance the local market will remain open.<sup>546</sup>

177. In prior section 271 orders, the Commission has generally reviewed plans modeled after either the New York or the Texas plans.<sup>547</sup> However, the Commission has also

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omitted). For example, "[i]n many states, . . . higher business rates subsidize some residential rates, and, consequently, certain residential services are priced below cost." *Verizon Vermont Order* at para. 68.

<sup>543</sup> *Accord id.* at para. 72.

<sup>544</sup> *See, e.g., Verizon Pennsylvania Order*, 16 FCC Rcd. at 17487-88, para. 127.

<sup>545</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20748-50, paras. 393-398. We note that in all of the previous applications that we have granted to date, the applicant was subject to an enforcement plan administered by the relevant state commission to protect against backsliding after BOC entry into the long-distance market.

<sup>546</sup> NJ Incentive Plan at 23.

<sup>547</sup> *See, e.g., Verizon Connecticut Order*, 16 FCC Rcd at 14181, para. 76; *Verizon Massachusetts Order*, 16 FCC Rcd at 9120, para. 238; *SWBT Texas Order*, 15 FCC Rcd at 18560, para. 421; *Bell Atlantic New York Order*, 15 FCC Rcd at 4166-67, para. 433.

approved plans that are not modeled on either of those two plans.<sup>548</sup> As the Commission has stated in prior orders, we recognize that states may create plans that ultimately vary in their strengths and weaknesses as tools for post-section 271 authority monitoring and enforcement.<sup>549</sup>

178. We conclude that the New Jersey IP provides incentives to foster post-entry checklist compliance. As in prior section 271 orders, our conclusions are based on a review of several key elements in any performance remedy plan: total liability at risk in the plan; performance measurement and standards definitions; structure of the plan; self-executing nature of remedies in the plan; data validation and audit procedures in the plan; and accounting requirements.<sup>550</sup> We note that the New Jersey IP does not impose an absolute cap on the Verizon's potential liability.<sup>551</sup> The amount of credits and payments due to competitive LECs under the IP increases with the severity and duration of a failure to meet performance standards, and with the number of competitive LECs affected.<sup>552</sup> Under the New Jersey IP, most payments to competitive LECs are based the difference between Verizon's actual performance for that competitive LEC and the applicable standard, rather than overall performance to competitive LECs on an aggregate basis compared to the applicable standard.<sup>553</sup> We also note that the New Jersey IP includes provisions that impose penalties on Verizon for submitting incomplete or revised reports and/or reports found to require revision.<sup>554</sup>

179. As the Commission has stated in prior orders, the IP is not the only means of ensuring that Verizon continues to provide nondiscriminatory service to competing carriers.<sup>555</sup> Moreover, in addition to the monetary payments at stake under this plan, Verizon faces other consequences if it fails to sustain an acceptable level of service to competing carriers, including enforcement provisions in interconnection agreements, federal enforcement action pursuant to section 271(d)(6), and remedies associated with antitrust and other legal actions.

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<sup>548</sup> See *Verizon Pennsylvania Order*, 16 FCC Rcd at 17488-89, paras. 128-129.

<sup>549</sup> See *id.* at 17488, para. 128.

<sup>550</sup> See, e.g., *Verizon Massachusetts Order*, 16 FCC Rcd at 9121-24, paras. 240-47; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6377-81, paras. 273-78.

<sup>551</sup> IP Order at 21.

<sup>552</sup> NJ Board NJ I Comments at 76.

<sup>553</sup> NJ Incentive Plan at 3. Therefore, Verizon may have to pay a penalty to one competitive LEC even if it meets the overall performance standard.

<sup>554</sup> IP Order at 22.

<sup>555</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 4165, para. 430; *SWBT Texas Order*, 15 FCC Rcd at 18560, para. 421; *Verizon Pennsylvania Order* 16 FCC Rcd at 17489, para. 130.

180. AT&T contends that the IP will not be effective at deterring poor performance.<sup>556</sup> AT&T contend that Verizon's performance reports, which the IP uses to determine poor performance, are inaccurate, incomplete, and untrustworthy.<sup>557</sup> We disagree.<sup>558</sup> The metrics adopted by the New Jersey Board are comprised of a combination of metrics in effect in Pennsylvania and New York, states where the Commission has already granted Verizon section 271 authority.<sup>559</sup> We take further comfort in the provisions in the IP which impose penalties for late, inaccurate, or incomplete performance reports.<sup>560</sup>

181. We disagree with AT&T's further assertions that the IP will not deter backsliding due to a variety of deficiencies: (1) the IP contains no penalty for low total flow-through rates; (2) the penalties in the IP are too low or are not correctly correlated with the severity of competitive harm; (3) the IP relies on flawed statistical analysis; (4) Verizon has improperly excluded "projects" in the IP and Carrier-to-Carrier (C2C) Reports;<sup>561</sup> and (5) the IP contains an overbroad *force majeure* provision that places the burden on the competing LEC to challenge Verizon's invocation of the provision.<sup>562</sup> First, although we acknowledge that the IP does not contain penalties for total flow-through, the IP does contain penalties for Verizon's failure to meet achieved flow-through targets of 95 percent for both resale and UNEs.<sup>563</sup> Second, the IP also provides for penalties that increase in severity with the number of misses.<sup>564</sup> Third, the statistical methodology chosen by the New Jersey Board is substantially similar to the methodologies used in other states in which Verizon has received section 271 approval. Fourth, whether special "projects" should be excluded from the C2C reports or the IP is best dealt with as part of the state's oversight of the performance measurements and incentive plan. As discussed above, we find that, at least for purposes of this application, Verizon's performance

<sup>556</sup> AT&T NJ I Comments at 25-26; MetTel NJ I Comments at 4-5; AT&T NJ I Reply at 23. MetTel NJ II Reply at 17-18.

<sup>557</sup> AT&T NJ I Comments at 25-26.

<sup>558</sup> See *supra* Section III.2.B.2 for further discussion.

<sup>559</sup> NJ Board NJ I Comments at 80.

<sup>560</sup> NJ Board NJ I Comments at 81.

<sup>561</sup> MetTel also claims that the exclusion for projects in the Carrier-to-Carrier Reports means that Verizon's performance data is flawed. See MetTel NJ II Reply at 17-18.

<sup>562</sup> AT&T NJ I Bloss/Nurse Decl. at paras. 28-37; AT&T NJ I Reply at 30; AT&T NJ II Comments at 29-30; See MetTel NJ II Reply at 17-18 for additional comments on exclusions for "projects".

<sup>563</sup> "Achieved flow-through" measures the percentage of valid order received through the electronic ordering interface (EDI, Web GUI) that are designed to flow through that actually do flow through, but excluding those orders that do not flow through due to competitive LEC errors. "Total flow-through" measures the percentage of valid orders received through the electronic ordering interfaces (EDI, Web GUI) and processed directly to the service order processor without manual intervention. See New Jersey C2C Guidelines at 41.

<sup>564</sup> NJ Incentive Plan at 1.

data are generally reliable and reflective of Verizon's wholesale performance.<sup>565</sup> Finally, we agree with Verizon that the *force majeure* conditions available in the New Jersey plan are not materially different from the comparable provisions of the New York and Pennsylvania plans, which the Commission has previously found to provide incentives to foster post-entry checklist compliance.<sup>566</sup>

### C. Other Issues

182. Commenters raise several other concerns which they contend support a finding that a grant of this application is not in the public interest.<sup>567</sup> Based on the record before us, we are unable to find that Verizon's processes or practices in the areas raised by commenters have such an anti-competitive impact as to raise public interest concerns necessitating withholding of section 271 approval.

183. The NJDRA contends that approval of Verizon's application for section 271 authority is not in the public interest without first requiring structural separation of Verizon's retail and wholesale operations.<sup>568</sup> However, the Act does not require structural separation as a condition to section 271 approval, and we do not require it here.

184. In addition, Allegiance alleges that Verizon engages in anti-competitive practices that make it difficult for competitors to enter or continue in the New Jersey market.<sup>569</sup> In support of this generalized claim, Allegiance recounts the experience of a single customer.<sup>570</sup> Consistent

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<sup>565</sup> See *supra*, Section III.B.2.b for further discussion.

<sup>566</sup> In the event of a *force majeure* event, Verizon will pay the appropriate remedy under the IP into an escrow account. Interested parties must request that the New Jersey Board institute an appropriate proceeding to resolve the dispute within 30 days after the monthly report. Verizon NJ I Appl., App. J, Tab 2 at 168. Verizon notes that the amount of time interested parties have to file with the New Jersey Board is longer in New Jersey than in New York or Pennsylvania. Verizon NJ I Feb. 19 *Ex Parte* Letter at 3.

<sup>567</sup> See Allegiance NJ II Comments at 5-7; NJDRA NJ I Comments at 33; XO NJ I Comments at 26-27; see also Joint Commenters NJ II Comments at 7-8, alleging that Verizon does not provide access to almost 12% of its residential access lines. Verizon's testimony that it has provided access to 88.8% of its residential access lines through collocation arrangements does not mean that Verizon has denied competitive LECs access to 12% of its lines. See *Application of Verizon New Jersey Inc. for FCC Authorization to Provide In-Region InterLATA Service in New Jersey*, New Jersey BPU Docket No. TO01090541, Checklist Declaration on Behalf of Verizon New Jersey Inc., at para. 75.

<sup>568</sup> NJDRA NJ I Comments at 33. We note that the New Jersey Board is considering structural safeguards in a pending case. New Jersey Board NJ I Comments at 87.

<sup>569</sup> Allegiance NJ II Comments at 5-7.

<sup>570</sup> *Id.*

with our section 271 precedent, we find that such anecdotal evidence is not sufficient to demonstrate that this application is not in the public interest.<sup>571</sup>

185. Similarly, XO uses anecdotal evidence to support its claim that Verizon imposes barriers on “CLEC-to-CLEC migrations.”<sup>572</sup> Currently, the Commission has no specific rules regarding such migrations; however, they must be executed in accordance with Verizon’s general duty of non-discrimination. To the extent that XO believes specific rules are now required, it may file a petition for rulemaking or seek specific rules at the state level. Indeed, as XO notes, the New York Public Service Commission has already starting working on such rules.<sup>573</sup> However, we find that XO has not submitted sufficient evidence for us to conclude that granting this application is not in the public interest.

186. We also disagree with commenters who argue that the Access New Jersey program must be available to participation by carriers other than Verizon as a precondition to satisfying the public interest requirements of section 271.<sup>574</sup> Access New Jersey was established through an agreement reached in April 1997 by the New Jersey Board, Verizon, the Department of Education, and NJDRA. The program allows schools and libraries to receive heavily discounted internet services through Verizon. XO argues that these discounts create barriers to entry in the schools and libraries market.<sup>575</sup> Section 271 review is not the appropriate forum for resolving this issue; rather, Congress established section 253 as the appropriate vehicle for parties to challenge state or local laws that create barriers to competitive entry.<sup>576</sup>

187. We also disagree with commenters’ arguments concerning Verizon’s declaration of a *force majeure* event in New Jersey following the events of September 11.<sup>577</sup> XO also claims that Verizon is not reporting its compliance with applicable performance standards in New Jersey.<sup>578</sup> As Verizon has not insisted on applying *force majeure* conditions in New Jersey, we do not believe XO’s comments in this respect warrant a finding that granting this application is contrary to the public interest.

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<sup>571</sup> See, e.g., *SWBT Texas Order* 15 FCC Rcd at 18375, para. 50.

<sup>572</sup> XO NJ I Comments at 26-27.

<sup>573</sup> *Id.* at 27.

<sup>574</sup> *Id.* at 24-26.

<sup>575</sup> *Id.* at 25.

<sup>576</sup> 47 U.S.C. § 253(c).

<sup>577</sup> XO NJ I Comments at 22-23 (arguing that it would not be consistent with the public interest to grant this application while Verizon is operating under a *force majeure* declaration, as Verizon may be excused from meeting its contractual obligations to competitors while operating under such conditions).

<sup>578</sup> *Id.*

188. Finally, we note that Verizon recently disclosed that it had engaged in two incidents of premature mail solicitations offering long distance service in New Jersey. According to Verizon, approximately 558,000 New Jersey customers received such a solicitation.<sup>579</sup> AT&T subsequently filed a motion seeking an investigation of Verizon's premature marketing of long distance service in New Jersey, issuance of a "standstill order" directing Verizon to immediately cease and desist from advertising long distance service in New Jersey, and denial of this application on the grounds that Verizon has not met the public interest standard of section 271(d)(3)(C) due to these solicitation incidents.<sup>580</sup>

189. Upon learning of the mailings, Verizon notified the Commission and began taking corrective action, including mailing Western Union letters to affected customers to inform them that the direct mailings and bill inserts had been sent erroneously and that Verizon was not yet authorized to provide long distance service.<sup>581</sup> Verizon also began developing additional internal safeguards to prevent incidents of this nature from occurring in the future.<sup>582</sup> Verizon contends that, even if a customer were to call to request long distance service in New Jersey, its customer service representatives have been trained to respond that Verizon is not authorized to provide such service.<sup>583</sup> In addition, Verizon claims – and AT&T has not disputed – that, if a customer service representative were to submit an order to provide Verizon long distance service in New Jersey prior to FCC approval of this application, any long distance calls placed by the customer would be blocked and would not go through because the long distance affiliate's switching equipment has not been modified to allow such calls to be completed.<sup>584</sup>

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<sup>579</sup> See Letter from Dee May, Asst. Vice President, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed May 31, 2002) (Verizon NJ II May 31 *Ex Parte* Letter); Letter from Dee May, Asst. Vice President, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed June 12, 2002) (Verizon NJ II June 12 *Ex Parte* Letter).

<sup>580</sup> *Motion of AT&T Corp. for Emergency Relief*, WC Docket No. 02-67, at 4-5 (filed June 13, 2002). Shortly thereafter, AT&T supplemented its motion with affidavits from two of its employees, one alleging that Verizon had engaged in telephone solicitation for its unauthorized New Jersey long distance service, and the other providing documentation of a confirmed order placed for Verizon long distance service in New Jersey on June 17, 2002, seven days prior to the statutory deadline for review of this application. See Letter from Robert H. Quinn, Jr., Vice President, Governmental Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed June 14, 2002) (AT&T NJ II June 14 *Ex Parte* Letter), attaching Declaration and Affidavit of Dilshad Khawaja, Ph.D.; Letter from Robert H. Quinn, Jr., Vice President, Governmental Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed June 17, 2002) (AT&T NJ II June 17 *Ex Parte* Letter), attaching Declaration and Affidavit of Michael C. Lamb.

<sup>581</sup> Verizon NJ II May 31 *Ex Parte* Letter at 1-2; *Verizon's Reply to AT&T's Motion for Emergency Relief*, WC Docket No. 02-67, at 3-4 (filed June 14, 2002).

<sup>582</sup> *Verizon's Reply to AT&T's Motion for Emergency Relief* at 4.

<sup>583</sup> Verizon NJ II June 12 *Ex Parte* Letter at 1.

<sup>584</sup> *Id.*

190. We recognize that potential violations of federal telecommunications law could be relevant to the section 271 inquiry.<sup>585</sup> Given the facts presented here, however, because the allegations do not relate to the openness of the local telecommunications markets to competition, we reject AT&T's argument that we should deny or delay this application under the public interest standard.<sup>586</sup> As a result, the Commission need not make any further determination here. Instead, we defer any enforcement action pending the outcome of the Enforcement Bureau's investigation of this matter. Regardless of what enforcement action we may take in the future, BOCs should not market long distance service in an in-region state prior to receiving section 271 approval from the Commission for that particular state, and we remind Verizon and all BOCs to exercise caution in this regard.

## VII. SECTION 271(d)(6) ENFORCEMENT AUTHORITY

191. Section 271(d)(6) of the Act requires Verizon to continue to satisfy the "conditions required for . . . approval" of its section 271 application after the Commission approves its application.<sup>587</sup> Thus, the Commission has a responsibility not only to ensure that Verizon is in compliance with section 271 today, but also that it remains in compliance in the future. As the Commission has already described the post-approval enforcement framework and its section 271(d)(6) enforcement powers in detail in prior orders, it is unnecessary to do so again here.<sup>588</sup>

192. Working with the New Jersey Board, we intend to closely monitor Verizon's post-approval compliance for New Jersey to ensure that Verizon does not "cease[] to meet any of the conditions required for [section 271] approval."<sup>589</sup> We stand ready to exercise our various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in New Jersey.

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<sup>585</sup> See *Ameritech Michigan Order*, 12 FCC Rcd at 20749-50, para. 397 ("Because the success of the market opening provisions of the 1996 Act depend, to a large extent, on the cooperation of incumbent LECs, including the BOCs, with new entrants and good faith compliance by such LECs with their statutory obligations, evidence that a BOC has engaged in a pattern of discriminatory conduct or disobeying federal and state telecommunications regulations would tend to undermine our confidence that the BOC's local market is, or will remain, open to competition once the BOC has received interLATA authority.").

<sup>586</sup> See, e.g., *Bell Atlantic New York Order*, 15 FCC Rcd 4126-27, para. 340; *Verizon Massachusetts Order*, 16 FCC Rcd at 9107, para. 211.

<sup>587</sup> 47 U.S.C. § 271(d)(6).

<sup>588</sup> See, e.g., *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6382-84, paras. 283-85; *SWBT Texas Order*, 15 FCC Rcd at 18567-68, paras. 434-36; *Bell Atlantic New York Order*, 15 FCC Rcd at 4174, paras. 446-53; see also Appendix C.

<sup>589</sup> 47 U.S.C. § 271(d)(6)(A).



193. In the course of this proceeding, we have given Verizon's billing system close scrutiny, as have the New Jersey Board, the Department of Justice, and other commenters.<sup>590</sup> We will continue to monitor Verizon's OSS performance closely, especially its performance associated with notifiers, wholesale billing, and electronic order processing. As the Department of Justice recommends, in light of the relative lack of commercial usage of Verizon's OSS systems in New Jersey and Verizon's reliance on a similar manual reconciliation process in New Jersey as in Pennsylvania, we will closely monitor Verizon's wholesale billing performance in New Jersey following section 271 approval, as we are doing in Pennsylvania.<sup>591</sup> We are prepared to use our authority under section 271(d)(6) if evidence shows that recent improvements in Verizon's OSS performance have not been maintained.

194. Consistent with prior section 271 orders, we require Verizon to report to the Commission all New Jersey carrier-to-carrier performance metrics results and Incentive Plan monthly reports, beginning with the first full month after the effective date of this Order, and for each month thereafter for one year, unless extended by the Commission.<sup>592</sup> These results and reports will allow us to review Verizon's performance on an ongoing basis to ensure continued compliance with the statutory requirements. We are confident that cooperative state and federal oversight and enforcement can address any backsliding that may arise with respect to Verizon's entry into the New Jersey.

## VIII. CONCLUSION

195. For the reasons discussed above, we grant Verizon's application for authorization under section 271 of the Act to provide in-region, interLATA services in the state of New Jersey.

## IX. ORDERING CLAUSES

196. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 271 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 271, Verizon's application to provide in-region, interLATA service in the state of New Jersey, filed on March 26, 2002, IS GRANTED.

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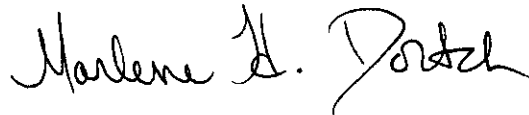
<sup>590</sup> See New Jersey Board NJ I Comments at 40-41; Department of Justice NJ I Evaluation at 5-6 n.21; Department of Justice NJ II Evaluation at 5-9; AT&T NJ I Comments at 22.

<sup>591</sup> Department of Justice NJ II Evaluation at 7 and n.27 (citing *Verizon Pennsylvania Order*, 16 FCC Rcd at 17445, at para. 42).

<sup>592</sup> These reports should include the electronic billing metrics identical to those reported in Pennsylvania.

197. IT IS FURTHER ORDERED that this Order SHALL BECOME EFFECTIVE  
July 3, 2002.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Marlene H. Dortch". The signature is fluid and cursive, with the first name "Marlene" and last name "Dortch" clearly legible, and "H." as a middle initial.

Marlene H. Dortch  
Secretary